

The allowance of claims 1-4, 8-10 and 12 is noted with appreciation.
Presently, claims 1-10 and 12 are pending. No new matter has been added.

SEQUENCE DISCLOSURE

• The application is objected to for containing sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2) but failing to comply with the requirements set forth in 37 CFR 1.821 through 1.825. Specifically, the Office Action states that sequences appearing in Figures 1 and 2 are not listed in the Sequence Listing of record in the application.

In response thereto, Applicants submit herewith a Sequence Listing, including sequences listed in Figures 1 and 2, in fulfillment of the requirements of 37 CFR 1.821 through 1.825.

Applicants respectfully request permission to amend Figures 1 and 2 to include the appropriate Sequence ID Numbers. In this regard, Applicants submit herewith a copy of Figures 1 and 2, with proposed changes marked in red, and a second copy of Figures 1 and 2 with the intended changes added.

REJECTION UNDER 35 U.S.C. § 102(E)

Claims 5-7 are rejected under 35 U.S.C. § 102(e), as being anticipated by U.S. Patent No. 6,352,696 (Hallek et al., hereinafter Hallek). The disclosure of Hallek, specifically column 3, lines 45-61 and column 5, line 16 to column 6, line 64, is alleged to teach the invention of claims 5-7. Applicants respectfully traverse.

Applicants invention of claim 5 is directed to a nucleic acid encoding a fusion protein comprising a first segment comprising a nucleic acid encoding a portion of an HPV L2 protein which is less than a full-length sequence, and a second segment comprising a nucleic acid encoding a peptide or protein. Claim 6 further defines this invention to describe the HPV type of the first segment. Claim 7 further limits claim 6 to require that the second segment encodes a protein selected from the group consisting of: E1, E2, E3, E4, E5, E6, E7, HIV Tat and beta-lactamase.

Hallek allegedly teaches the preparation of fusion proteins comprising truncated L2 protein sequences fused to a second protein. It is alleged that said sequences can be prepared from nucleic acid sequences encoding said fusion proteins. The disclosure of Hallek was originally filed on February 20, 1998, less than one year before Applicants effective filing date of

August 14, 1998. Applicants assert that the invention of claims 5-7 was actually reduced to practice before February 20, 1998 in the United States.

In that regard, Applicants submit herewith an Affidavit of Prior Invention under 37 CFR § 131.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the instant rejection.

CONDITIONAL PETITION

Applicant hereby makes a Conditional Petition for any relief available to correct any defect in connection with this filing, or any defect remaining in this application after this filing. The Commissioner is authorized to charge deposit account 13-2755 for the petition fee and any other fee(s) required to effect this Conditional Petition.

CONCLUSION

In view of the foregoing amendments and remarks, it is seen that the grounds of rejections have been overcome and that Claims 1-10 and 12 are in proper condition for allowance. Accordingly, Applicant respectfully requests that all of the rejections of record be withdrawn and a Notice of Allowance be forwarded to the Applicant. The Examiner is invited to contact Applicant's Attorney at the telephone number given below, if such would expedite the allowance of this application.

Respectfully submitted,

By Joan E. Switzer

Joan E. Switzer
Reg. No. 34,740
Attorney for Applicant

MERCK & CO., INC.
P.O. Box 2000
Rahway, New Jersey 07065-0907
(732) 594-5616

Date: 10/8/02